

REMARKS

This amendment responds to the Office Action dated November 6, 2006. Claims 1-6 and 44-51 are in the application. Claims 1 and 44 are in independent form. Claims 9, 10, 13, 15-17, 19-23, 26-28, 30 are cancelled by this amendment.

Applicants' attorney thanks the Examiner for the courtesies rendered during the March 21, 2007 telephonic interview. The remarks below incorporate the subject matter discussed during the interview.

Reconsideration is respectfully requested in light of the following remarks.

35 USC § 103

The claims stand rejected under 35 USC § 103 for obviousness over U.S. Pat. No. 6,611,806 to Harvey ("Harvey") in view of U.S. Pat. No. 5,771,657 to Lasher ("Lasher") and others. Applicants respond as follows.

Harvey is directed to a computer system for tracking the lot numbers of pharmaceuticals that are administered to patients. The system includes a plurality of remote systems, each typically at a different hospital. Each remote system associates the lot numbers of pharmaceuticals that are administered to patients. As described by Harvey, there is great value in being able to quickly and efficiently track the patients to whom pharmaceuticals, such as blood derivatives, have been administered. One example is product recall. Occasionally, a pharmaceutical will be recalled by its manufacturer or by the FDA. The ability to track pharmaceuticals to patients is also of great importance to research. Fast and efficient tracking can facilitate the evaluation of drug effectiveness.

Lasher is directed to an automated prescription dispensing and packing system, empty prescription bottles are labeled and loaded in assigned locations in carriers. Pills are automatically dispensed into the prescription bottles in the carriers. Ranks of carriers containing filled prescription bottles are assembled at stations where the bottles are unloaded and packed into shipping containers with literature printed by the system. Multiple bottles of an order are automatically packed in the same shipping container.

Claim 1 recites a method for tracking prescription orders through a pharmacy having a storage area with an array of compartments for storing filled prescription orders therein, the method including the steps of operably securing a machine-

readable tag to a prescription order upstream of the storage area, and manually moving the prescription order to one of the compartments in the array of compartments as a filled prescription order, each compartment having a corresponding compartment tag reader that is in communication with the computer system and is operable to read the unique identifier of the tag on the filled prescription order regardless of the orientation of the tag.

The Examiner states that Harvey discloses a method of tracking prescription orders through a pharmacy and includes the step of operably securing remote machine-readable tag to the prescription order (citing Harvey, col 4, lines 16-56) and associating the tag with customer information. The Examiner notes that Harvey does not disclose manually moving the prescription order to one compartment in of an array of compartments, each of which has a compartment tag reader, and automatically recording the compartment where the filled prescription is located. The Examiner cites Lasher as disclosing these features and concludes that it would have been obvious to combine the features of Lasher with the system of Harvey. Applicants respond as follows.

Harvey is directed to a system for tracking the lot numbers of prescriptions that have been delivered to customers, as described by Harvey at col. 4, lines 16-27:

A key feature of the present invention is to record an association between each prescription issued by the physician which is to be tracked and the lot number or numbers of the pharmaceuticals that are actually administered to the patient in fulfillment of the prescription. Although referring to the information that identifies a particular pharmaceutical as a lot number, it is to be understood that the phrase "lot number" is intended to connote any type of information that is used to identify the pharmaceutical, whether it is called a "lot number" or not. This includes information that identifies a particular batch or set of products that is administered to a patient, or any other type of organizational arrangement.

The tracking or lot numbers described by Harvey merely adds an additional information field to records of dispensed prescriptions. The additional information field is used not to improve the accuracy of dispensing prescriptions, but rather to identify after delivery of the prescription which manufacturing batch the prescription came from for purposes of recall or analysis. Nothing in the Harvey system provides any teaching or suggestion of physical tracking of individual prescription orders within a retail pharmacy to provide increased accuracy in the dispensing of prescriptions. Rather, applicants submit that

Harvey would lead one skilled in the art away from a tracking system for individual prescriptions within a pharmacy.

Moreover, applicants submit that Harvey provides no teaching or suggestion of “operably securing remote machine-readable tag to the prescription order.” In the passage cited by the Examiner, Harvey states that “the pharmacist enters the details of the prescription in the station 11 under the control of a data entry program 19.” (Harvey, col. 39-41.) No part of the action stated by Harvey includes “operably securing remote machine-readable tag to the prescription order.” No machine readable tag is mentioned by Harvey and no step is mentioned of operably securing such a tag to a prescription.

Furthermore, Lasher is directed to a fully automated prescription dispensing and packing system. Such fully automated systems are incompatible with many pharmacy operations, as described in the application at page 4, lines 1-15:

Similarly, some pharmacy vendors have attempted to automate the prescription filling aspect of a pharmacy by incorporating an automatic assembly line process for filling prescription orders. In particular, an operator enters a prescription order into a computer system, which causes a conveyor-type system to deliver an empty vial to an automated drug dispenser. The filled vial is then automatically matched with a label and presented to a pharmacist for final review and approval. While these types of devices facilitate the quick and efficient filling of prescription orders, they are expensive for use in a retail pharmacy environment, and they occupy a large amount of limited space within the pharmacy. Moreover, they still require pharmacy workers to perform manual tasks such as verifying insurance and renewability of the prescription, and processing the various forms of prescription orders before and after they are entered into the automated system. Accordingly, they do not permit the easy tracking of prescription orders as they travel within the automated pharmacy environment.

Moreover, applicants note that claim 1, for example, recites “manually moving the prescription order to one of the compartments in the array of compartments as a filled prescription order.” While the Examiner cites Lasher as disclosing the “manual moving” recited in the claim, applicants note that its dictionary definition the term manual means “by hand.” The fully automated system of Lasher explicitly directed to automated handling, not manual handling.

A rejection for obviousness under 35 USC 103 requires that the cited references teach or suggest each and every feature recited in the claim. Applicants submit that

the rejection is improper and should be withdrawn because Harvey and Lasher do not include each and every feature recited in claim 1. In particular, neither reference teaches or suggests operably securing a machine-readable tag to a prescription and manually moving the prescription to a compartment within an array of compartments.

Moreover, applicants submit that there is no teaching or suggestion to combine the references as proposed by the Examiner. Harvey is directed to collecting lot or batch information about prescribed pharmaceuticals that have been distributed to customers. Harvey is not remotely directed to or concerned with the physical tracking or prescriptions within a pharmacy. In contrast, Lasher is directed to a fully automated prescription system that has no manual moving of prescriptions. Applicants submit that any combination of Harvey and Lasher would result in a fully automated prescription system that also tracks lot numbers, not the physical tracking method of the present invention for prescriptions that are handled manually. Accordingly, applicants submit that claim 1 and its dependent claims 2-6 are patentably distinct from the cited references and request that the rejection be withdrawn.

Claim 44 recites a method that ensures correct distribution of prescription orders customers of a pharmacy having a storage portion with an array of individually identified storage areas therein. As with claim 1, the method includes operably securing a machine-readable tag to the prescription order and also includes :

placing the filled prescription order and the machine-readable tag into one individually identified storage area of the plurality of individually identified storage areas without instructions from the computer system as to which individually identified storage area the filled prescription order and the machine-readable tag are to be placed thereby defining a pharmacy worker selected storage area;

Applicants submit that independent claim 44, and its dependent claims 45-51, are patentably distinct from the cited references for the reasons set forth above with regard to claim 1.

A rejection for obviousness under 35 USC 103 requires that the cited references teach or suggest each and every feature recited in the claim. Applicants submit that the rejection is improper and should be withdrawn because Harvey and Lasher do not include each and every feature recited in claim 44. In particular, neither reference teaches or suggests operably securing a machine-readable tag to a prescription and moving the prescription to a compartment within an array of compartments without

instructions from the computer system. Harvey makes no mention of determining or tracking the locations of prescriptions among an array of compartments in a pharmacy, and the fully automated, computer-controlled system of Lasher provides no teaching or suggestion of positioning prescriptions without computer control.

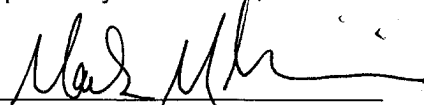
Moreover, applicants submit that there is no teaching or suggestion to combine the references as proposed by the Examiner. Harvey is directed to collecting lot or batch information about prescribed pharmaceuticals that have been distributed to customers. Harvey is not remotely directed to or concerned with the physical tracking or prescriptions within a pharmacy. In contrast, Lasher is directed to a fully automated prescription system that has no moving of prescriptions in the absence of computer control. Applicants submit that any combination of Harvey and Lasher would result in a fully automated prescription system that also tracks lot numbers, not the physical tracking method of the present invention for prescriptions that includes worker selection of storage areas. Accordingly, applicants submit that claim 44 and its dependent claims 45-51 are patentably distinct from the cited references and request that the rejection be withdrawn.

CONCLUSION

In view of the foregoing, applicants submit that all of the currently pending claims are in condition for allowance, and respectfully request that the case be passed to issuance. If the Examiner has any questions, he is invited to contact applicants' attorney at the below-listed telephone number.

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Respectfully submitted,

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